

## Message Text

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PAGE 01 RABAT 06625 01 OF 02 101634Z

46

ACTION NEA-10

INFO OCT-01 ISO-00 L-03 EB-07 TRSE-00 OPR-02 A-01 /024 W

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R 101551Z DEC 76

FM AMEMBASSY RABAT

TO SECSTATE WASHDC 509

UNCLAS SECTION 1 OF 2 RABAT 6625

E.O. 11652: N/A

TAGS: EFIN MO

SUBJECT: US-MOROCCO DOUBLE TAXATION TREATY

REF: (A) STATE 265777, (B) STATE 65032, (C) RABAT 5694,  
(D) STATE 131949

1. U.S. TEAM TAKEN BY TOTAL SUPRISE AT DEC 7 SESSION TO NEGOTIATE CHANGES SUGGESTED BY WASHINGTON CONFIRMING FRENCH AND ENGLISH TEXTS WHEN GOM TEAM PRESENTED ORIGINAL COPY OF FRENCH TEXT INITIALED BY 1972 U.S. NEGOTIATING TEAM HEADED BY TREASURY REP NATHAN GORDON (COPY AIRPOUCHED TREASURY ATTN: FIELD. INITIALED FRENCH TEXT VIRTUALLY IDENTICAL WITH FRENCH TEXT SUBMITTED BY MOROCCAN MINISTRY OF FINANCE ON 15 JUNE 1976 (FOR WHICH WASHINGTON REQUESTED DOZENS OF CHANGES IN LANGUAGE). WE HAD BEEN ASSURED BY WASHINGTON THAT FRENCH TEXT DID NOT EXIST (SEE REF D); WHILE GOM ITSELF HAD TAKEN SEVERAL MONTHS EARLIER IN YEAR, OSTENSIBLY TO PREPARE FRENCH TRANSLATION, WHEN IT MIGHT HAVE SENT US PHOTOCOPY OF INITIALED FRENCH TEXT.

2. GOM TEAM JUSTIFIABLY POINTED OUT THAT BOTH INITIALED TEXTS EQUALLY AUTHORITATIVE, PLACING U.S. TEAM IN WEAK POSITION TO INSIST ON LINGUISTIC CHANGES SUGGESTED IN EDITED FRENCH COPY RECEIVED FROM WASHINGTON, SINCE ALTERNATIVE LANGUAGE HAD ALREADY BEEN ACCEPTED BY MR. NATHAN AND HIS ASSOCIATES AT TIME OF 1972 NEGOTIATIONS IN WASHINGTON.

3. IN INTEREST OF PUSHING TOWARDS EARLY SIGNATURE, MOROCCANS NEVERTHELESS AGREED TO WORK FROM JUNE 15 FRENCH TEXT AND ACCEPTED MOST OF SMALL CHANGES IN EDITED TEXT. IN THE END,  
UNCLASSIFIED

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PAGE 02 RABAT 06625 01 OF 02 101634Z

THEY INSISTED ONLY ON FOLLOWING LANGUAGE FROM FRENCH TEXT

INITIALED BY GORDON WHICH THEY CONSIDERED GO TO SUBSTANCE OF AGREEMENT. LINE REFERENCES ARE TO COPY OF CONVENTION POUCHED BY RABAT, NOT TO INITIALED FRENCH TEXT.

ARTICLE 1, PARA 1 (B), LINE 3

GOM CONSIDERS REFERENCE TO ARTICLE 21 SUPERFLUOUS, AND WISHES TO ELIMINATE "COMME PREVU A L'ARTICLE 21 (SUPPRESSION DE LA DOUBLE IMPOSITION)", GOM POINTS OUT THAT FRENCH TEXT AS ORIGINALLY INITIALED DOES NOT CONTAIN THIS PHRASE.

ARTICLE 1, PARA 2, LINE 2

GOM INSISTS ON EITHER "DE NATURE ANALOGUE" (AS IN INITIALED FRENCH TEXT) OR "DE NATURE SUBSTANTIELLEMENT ANALOGUE" (ACCEPTABLE ALTERNATIVE) IN PLACE OF "SUBSTANTIELLEMENT ANALOGUE"

ARTICLE 2, PARA 1 (A) 2, LINE 11

REPLACE "EST EN RAPPORT" WITH "SONT EN RAPPORT". GOM POINTS OUT (CORRECTLY) THAT THIS IS GRAMMATICALLY CORRECT FORM.

ARTICLE 2, PARA 1 (B) 2, LINE 9

REPLACE "EST EN RAPPORT" WITH "SONT EN RAPPORT". GOM POINTS OUT (CORRECTLY) THAT THIS IS GRAMMATICALLY CORRECT FORM.

ARTICLE 3, TITLE

MOROCCANS WANT "DOMICILE FISCAL" VICE "RESIDENCE FISCALE". "DOMICILE FISCAL" IS ESTABLISHED FRENCH TERM, WAS EMPLOYED IN INITIALED FRENCH TEXT, AND IS ALSO FORM USED IN FRANCO-AMERICAN TAX TREATY.

ARTICLE 3, PARA 1 (B) 2, LINE 3

REPLACE "LEGISLATION FISCALE DES ETATS-UNIS" WITH "LEGISLATION DES ETATS-UNIS" AS IN INITIALED FRENCH TEXT. GOM POINTS OUT THAT THE LANGUAGE THEY DESIRE ON THIS POINT IS IDENTICAL WITH SIMILAR CLAUSE OF US-FRANCE TAX TREATY.

ARTICLE 5, PARA 3, LINE 2 AND 3

MOROCCANS DO NOT ACCEPT DELETION OF "POU L'USAGE OU LA CONCESSION DE L'USAGE DES BIENS OU DES DROITS, ENONCES DANS LEDIT ARTICLE". INSIST ON INCLUSION OF THIS PHRASE SINCE IT UNCLASSIFIED

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PAGE 03 RABAT 06625 01 OF 02 101634Z

APPEARS IN BOTH INITIALED FRENCH AND ENGLISH TEXTS. NOTE ALSO THAT WORDS "ONT TRAIT" AT THE END OF LINE THREE SHOULD BE FIRST TWO WORDS IN SUB-PARAGRAPH A IMMEDIATELY FOLLOWING AND TEXT HAS BEEN SO AMENDED HERE. ARTICLE 5, PARA 4, LINE 1  
GOM DISAGREES WITH CHANGING "LES REDEVANCES" TO "DE REDEVANCES", NOTING THAT FORMER FORMULATION WAS AGREED TO IN INITIALED FRENCH TEXT AND "LES REDEVANCES" INCLUDES ALL ROYALTIES AND IS THUS CLEARER TRANSLATION THAN "DE REDEVANCES" IN THIS CASE.

ARTICLE 5, PARA 9, LINE 10

SUBSTITUTE "EN VUE D'EVITER UNE DOUBLE IMPOSITION OU DE  
REPONDRE A TOUT AUTRE BUT DE LA PRESENTE CONVENTION" FOR "EN  
VUE DE LA PRESENTE CONVENTION". FORMER LANGUAGE FROM  
INITIALED FRENCH TEXT.

ARTICLE 7, PARA 3, LINE 2

GOM FINDS "EXPOSEES" MORE APPROPRIATE THAN "ENCOURUES", NOTING  
THAT "ENCOURUES" IS NOT AN ACCEPTABLE FISCAL TERM AND THAT  
"EXPOSEES" IS USED IN THIS SECTION OF BOTH THE INITIALED  
FRENCH TEXT AND THE US-FRANCE TAX TREATY.

ARTICLE 10, PARA 2 (B), LINE 9

GOM STATED THAT PROPER TERM OF ART FOR "OUTSTANDING SHARES OF  
THE VOTING STOCK" IS "ACTIONS LIBEREES AVEC DROIT DE VOTE"  
NOT "ACTIONS EN CIRCULATION".

ARTICLE 11, PARA 4, LINE 2

REPLACE "REVENUS D'OBLIGATIONS, DE BONS OU DE TITRES, EMIS PAR  
LE GOUVERNEMENT" WITH ORIGINAL LANGUAGE FROM INITIALED FRENCH  
TEXT "REVENUS DES FONDS PUBLICS, DES OBLIGATIONS D'EMPRUNTS".  
LATTER PHRASE IS IDENTICAL TO SAME SECTION OF US-FRANCE TAX  
TREATY.

ARTICLE 12, PARA 3 (A), LINE 7

REPLACE "DROITS REELS ANALOGUES" WITH DROITS ANALOGUES" AS  
IN INITIALED FRENCH TEXT. ACCORDING TO GOM, ADDITION OF  
"REELS" UNDULY LIMITS PHRASE TO INCLUDE ONLY RIGHTS CONNECTED  
WITH OWNERSHIP OF PHYSICAL PROPERTY. "DROITS ANALOGUES", ON  
OTHER HAND, IS A MORE COMPREHENSIVE FORM SUFFICIENTLY NARROWED  
IN SCOPE BY EXAMPLES GIVEN.

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PAGE 04 RABAT 06625 01 OF 02 101634Z

ARTICLE 12, PARA 3 (A), LINE 8

REPLACE "POUR" (STRICKEN BY WASHINGTON) WITH "CELLES PAYEES  
POUR". GOM CONSIDERS THIS FORMULATION MORE GRAMMATICALLY  
ACCEPTABLE THAN SIMPLY ELIMINATING "POUR".ANDERSON

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PAGE 01 RABAT 06625 02 OF 02 101657Z

46

ACTION NEA-10

INFO OCT-01 ISO-00 L-03 OPR-02 A-01 EB-07 TRSE-00 /024 W

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R 101551Z DEC 76

FM AMEMBASSY RABAT

TO SECSTATE WASHDC 510

UNCLAS SECTION 2 OF 2 RABAT 6625

ARTICLE 13, PARA 1, LINE 3

REPLACE "DE CAPITAL" WITH "EN CAPITAL", WHICH GOM INSISTS IS PROPER TERM OF ART. EN CAPITAL" IS USED IN INITIALED FRENCH TEXT AND IN US-FRANCE TAX TREATY.

ARTICLE 13, PARA 2 (C), LINE 1

DELETE "PERSONNE PHYSIQUE" FROM FRENCH TEXT AND "INDIVIDUAL" FROM ENGLISH TEXT. INITIALED FRENCH TEXT DOES NOT CONTAIN "PERSONNE PHYSIQUE" AND GOM FEELS STRONGLY THAT THIS SECTION WAS INTENDED TO APPLY TO BOTH INDIVIDUALS AND COMPANIES. INITIALED FRENCH TEXT AND ARTICLE 3 DEFINITION OF RESIDENT CITED BY GOM AS MAKING CLEAR THAT MORE THAN INDIVIDUALS SHOULD BE COVERED.

ARTICLE 14, TITLE

SHOULD READ "PROFESSIONS INDEPENDANTES" VICE "SERVICES PERSONNELS INDEPENDANTS". FORMER IS ACCEPTED FISCAL TERM USED IN BOTH US-FRANCE TAX TREATY AND INITIALED TEXT. GOM STRONGLY COUNTER TO INTRODUCTION OF UNFAMILIAR FORMULATION SUGGESTED BY WASHINGTON BECAUSE OF POSSIBLE LEGAL CONFUSION.

ARTICLE 14, PARA 1, LINE 2 AND PARA 2, LINE 2

REPLACE "L'EXECUTION DE SERVICES PERSONNELS A TITRE INDEPENDANT" WITH ORIGINAL "L'EXERCISE D'UNE PROFESSION INDEPENDANTE". REASONING AS FOR TITLE ABOVE.

ARTICLE 15, TITLE

REPLACE "SERVICES PERSONNELS DEPENDANTS" WITH "PROFESSIONS DEPENDANTES". REASONING AS FOR TITLE OF ARTICLE 14.

ARTICLE 16, PARA 1, LINE 1 & 2 AND PARA 2, LINE 5

UNCLASSIFIED

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PAGE 02 RABAT 06625 02 OF 02 101657Z

REPLACE "SERVICES PERSONNELS INDEPENDANTS" WITH "PROFESSIONS INDEPENDANTES" AND "SERVICES PERSONNELS DEPENDANTS" WITH "PROFESSIONS DEPENDANTES". REASONING AS FOR TITLES OF ARTICLES 14 AND 15.

ARTICLE 16, PARA 1, LINES 8, 9 & 10

GOM WISHES TO MAINTAIN SENTENCE "LA REGLE ENONCEE CI-DESSUS S'APPLIQUE EGALEMENT AUX REVENUS OBTENUS PAR LES PERSONNES EXPLOITANT OU ORGANISANT LES ACTIVITES SUSVISEES", COVERING SHOW ORGANIZERS AND IMPRESARIOS UNDER ARTICLE 16. THIS SENTENCE APPEARS IN FRENCH TEXT, INITIALED BY GORDON IN NOVEMBER 1972, BUT NOT IN ENGLISH TEXT.

ARTICLE 20, PARA 5, LINES 1, 2 & 3

GOM INISTS ON ORIGINAL LANGUAGE AS INITIALED IN WASHINGTON "L'IMPOT SUR LES SOCIETES HOLDINGS PERSONNELLES (PERSONAL HOLDING COMPANY TAX) ET L'IMPOT SUR RESERVES ACCUMULEES (ACCUMULATED EARNINGS TAX) VICE "L'IMPOT PERSONNEL SU LES SOCIETES HOLDING ET L'IMPOT SUR LES BENEFICES LAISSES A LA DISPOSITION DES SOCIETES". MOROCCANS FEEL PARENTHETIC EXPRESSION IN ENGLISH MAKE ORIGINAL FORM QUITE CLEAR AND DEFINITIVE.

ARTICLE 20, PARA 5 (A), LINE 3

GOM PREFERS "PENDANT LA TOTALITE DE L'ANNEE D'IMPOSITION" TO "POUR TOUTE L'ANNEE D'IMPOSITION".

ARTICLE 27, TITLE

REPLACE "EXTENSION AUX TERRITOIRES" WITH "EXTENSION TERRITORIALE" AS IN INITIALED FRENCH TEXT AND US-FRANCE TAX TREATY.

ARTICLE 29, PARA 2, LINE 1

REPLACE "D'ANNEES IMPOSABLES" WITH ORIGINAL TEXT "DE PERIODES IMPOSABLES". GOM PREFERS TAX PERIOD TO TAX YEAR IN BOTH ENGLISH AND FRENCH BECAUSE OF VARIATION IN FISCAL PERIODS AND USAGE AS BETWEEN CHRISTIAN AND MOSLEM CALENDAR. INITIALED FRENCH TEXT EMPLOYED "DE PERIODES IMPOSABLES".

4. RE FRANCO-US TREATY LANGUAGE. U.S. TEAM IN EACH CASE CHECKED FRENCH-US TREATY TEXT TO VERIFY GOM ASSERTION WAS CORRECT.

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PAGE 03 RABAT 06625 02 OF 02 101657Z

5. WASHINGTON ARABIC TEXT COMMENTS RECEIVED DECEMBER 8 ARE PRESENTLY UNDER STUDY. GIVEN ACCOMODATING GOM ATTITUDE, BELIEVE ARABIC TEXT CAN BE RATHER QUICKLY CONFORMED. SUGGEST ONCE DECISIONS REACHED ON GOM COMMENTS ON OTHER TEXTS (ABOVE), WASHINGTON PROCEED TO RE-REVIEW ARABIC TEXT SUGGESTIONS TO SEE HOW THESE MUST BE MODIFIED TO REFLECT FRENCH AND ENGLISH TEXTS. IN ANY EVENT, GOM SIDE SAYS IT HAS BEEN CUSTOMARY FOR ONLY FRENCH AND THIRD LANGUAGE (ENGLISH) TO BE SIGNED. ARABIC TEXT IS PRINTED IN BULLETIN OFFICIEL SOME TIME (USUALLY A FEW MONTHS) LATER. THEY THUS SUGGEST THAT SIGNING CEREMONY BE SCHEDULED ONCE FRENCH AND ENGLISH TEXTS AGREED, WITH ANY REMAINING WORK ON ARABIC TEXT BEING

HELD OVER FOR LATER RESOLUTION.

6. REQUEST WASHINGTON REACTION FRENCH LANGUAGE CHANGES SOONEST  
TO PERMIT TEXT TO BE FINALIZED BEFORE GOM TEAM DISPERSES  
FOR HOLIDAYS.

7. TELEGRAM RE MODIFICATIONS IN ENGLISH TEXT FOLLOWS.  
ANDERSON

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TAX AGREEMENTS, DOUBLE TAXATION, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 10 DEC 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
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**Disposition History:** n/a  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Review Authority:** wolfsd  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** US-MOROCCO DOUBLE TAXATION TREATY  
**TAGS:** EFIN, MO  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006